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14 Attorney for Defendant  
15 YEVGENIY ALEXANDROVICH NIKULIN

16 IN THE UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 SAN FRANCISCO DIVISION

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 YEVGENIY ALEXANDROVICH NIKULIN,

23 Defendant.

24 No. 16-CR-00440 WHA

25 DEFENDANT'S MOTION TO  
26 CONTINUE TRIAL

27 Date: March 17, 2020

28 Time: 7:30 a.m.

29 HON. WILLIAM H. ALSUP

30 Counsel for the defense, Adam Gasner and Valery Nechay, respectfully move the Court to  
31 continue the trial in the above-captioned case from March 17, 2020, to a future date in concert with  
32 county, state, and federal directives regarding public gatherings in the midst of the Covid-19  
33 pandemic. Counsel for the defense believe under 18 U.S.C. § 3161(h) (7), the Court should find a  
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1 continuance weighs in favor of the best interests of the public and outweighs the interests of  
2 defendant Nikulin's right to a speedy trial.

3       During a telephonic meeting with the Court and the Government this morning, the Defense  
4 was made aware that a prosecution witness, Secret Service Special Agent Richard La Tulip, has  
5 possibly been exposed to the Coronavirus through his travels and contact with a person exhibiting  
6 symptoms consistent with Covid-19. It was further brought to our attention that neither the ill  
7 person nor S.A. La Tulip have been tested for the virus. This is of concern because – as is  
8 apparently the case with S.A. LaTulip - people carrying the virus may be asymptomatic. Defense  
9 counsel believe S.A. La Tulip's appearance in the courtroom places all in attendance at undue risk  
10 and does not perceive this situation as a merely generalized fear or concern at this point.

11       Since our telephonic meeting this morning, the White House issued a public directive to  
12 avoid groups of more than 10 people. Moreover these concerns are supported by recent actions of  
13 public health officers of Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara  
14 counties who today announced, with the City of Berkeley, a legal order directing their respective  
15 residents to shelter at home for three weeks beginning March 17<sup>th</sup>, 2020. The order limits activity,  
16 travel, and business functions to only the most essential needs. The guidance comes after  
17 substantial input from the U.S. Centers for Disease Control and Prevention (CDC).

18       Furthermore, it is unclear whether any inmates at Maguire Correctional Facility have  
19 Covid-19 since representatives of the jail confirmed that there are no tests available despite  
20 requests for them.

21       Therefore, the defense respectfully requests the Court to find a continuance of the  
22 trial weighs in favor of the best interests of the public and the defendant, and that the trial be  
23 continued for 30 days.

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2 Respectfully submitted,

3 DATED: March 16, 2020

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/s/ Adam G. Gasner

5 Adam G. Gasner, Esq.

6 Attorney for Defendant

7 YEVGENIY ALEXANDROVICH NIKULIN

8 DATED: March 16, 2020

9

/s/ Valery Nechay

10 Valery Nechay, Esq.

11 Attorney for Defendant

12 YEVGENIY ALEXANDROVICH NIKULIN

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